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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/428,363	10/27/1999	FREDERICK MURRAY BURG	113571	4560
26652	7590	03/31/2004	EXAMINER	
AT&T CORP. P.O. BOX 4110 MIDDLETOWN, NJ 07748			LIN, KENNY S	
			ART UNIT	PAPER NUMBER

2154

DATE MAILED: 03/31/2004

19

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/428,363	BURG ET AL.	
	Examiner	Art Unit	
	Kenny Lin	2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 March 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4, 7-15 and 18-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7-15 and 18-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

1. Claims 1-4, 7-15 and 18-27 are presented for examination.

**Claim Rejections - 35 USC § 103**

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-4, 7-15 and 18-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goss et al (hereinafter Goss), U.S. Patent Number 6,366,575, in view of Morganstein et al (hereinafter Morganstein), U.S. Patent Number Re. 37,001.

4. Goss and Morganstein were cited in the previous office action.

5. As per claims 1 and 13, Goss taught the invention as claimed including a method/apparatus for setting up a call between a subscriber premises and a call center (col.1, lines 62-65) comprising:

- a. Receiving a call set up request from a gateway responsive to the subscriber premises (fig.6, col.1, lines 62-65, col.3, lines 28-29, col.6, lines 16-21, col.22, lines 53-64), said gateway being connected to the subscriber premises via a data network (col.22, lines 53-64);

- b. Sending an availability query from the gateway to the call center via the data network (158, fig.6, Wait # minutes before contacting me, col.6, lines 21-23, col.13, lines 7-15);
- c. Preparing a call set up instruction for setting up the call initiated by the call center to the subscriber premises if an availability reply is received from the call center (col.2, lines 2-8, 12-13, col.7, lines 1-6, 59-64, col.8, lines 11-18, 35-42); and
- d. Estimating a time-in-queue and preparing a call queue status message for delivery to the gateway if an unavailability reply is received before the availability reply is received from the call center (col.1, lines 19-22, col.2, lines 14-16, col.7, lines 1-10, col.9, lines 13-19, col.23, lines 42-45, 66-67).

6. Goss did not specifically teach to estimate a time-in-queue for the call center to become available to initiate the call. However, since Goss taught to use timer in queue to determine whether the request will be rejected or not (col.23, lines 42-45), it would have been obvious to use a timer to estimate a time-in-queue to estimate how long the subscriber has been waiting. Morganstein also taught to estimate the time-in-queue (col.5, lines 18-20) and prepare a call queue status message (col.2, lines 15-18, col.5, lines 26-39, col.9, lines 10-12). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Goss and Morganstein because Morganstein's teaching of determining time-in-queue helps Goss' system to show how long the subscriber has been waiting in queue for help.

7. As per claims 2 and 14, Goss and Morganstein taught the invention substantially as claimed in claims 1 and 13. Goss further taught that a call path between the call center and the subscriber premises is provided (col.3, lines 65-67, col.4, lines 23-26).

8. As per claim 3, Goss and Morganstein taught the invention substantially as claimed in claim 2. Goss further taught that a network switch provides the call path in response to the call set up instruction (col.2, lines 2-8, 12-13, col.7, lines 59-64, col.8, lines 11-18, 35-45, col.22, lines 65-67, col.23, lines 1-4).

9. As per claims 4 and 15, Goss and Morganstein taught the invention substantially as claimed in claims 2 and 14. Goss further taught that a call to the subscriber premises is placed when providing the call path (col.2, lines 2-8, 12-13, col.7, lines 59-64, col.8, lines 11-18, 35-45, col.22, lines 65-67, col.23, lines 1-4).

10. As per claims 7 and 18, Goss and Morganstein taught the invention substantially as claimed in claims 1 and 13. Morganstein further taught to send the call queue status message to the gateway for delivery to the subscriber premises (col.2, lines 15-18, col.3, lines 64-67, col.5, lines 26-39, col.9, lines 10-12).

11. As per claims 8 and 19, Goss and Morganstein taught the invention substantially as claimed in claims 1 and 13. Goss further taught to include the reception of an agent available

reply from the call center (col.7, lines 1-6, 59-64, col.8, lines 11-18, 35-42) and preparation of an updated call queue status message for delivery to the gateway (col.9, lines 30-46).

12. As per claims 9 and 20, Goss and Morganstein taught the invention substantially as claimed in claims 1 and 13. Goss further taught the preparation of an updated call queue status message for delivery to the gateway after receiving the availability reply (col.7, lines 1-6, 59-64, col.8, lines 11-18, 35-42, col.9, lines 30-46).

13. As per claims 10 and 21, Goss and Morganstein taught the invention substantially as claimed in claims 1 and 13. Goss further taught that the subscriber premises include a computer for communication with the gateway and a telephone for communicating with the call center (44, 46, fig.1, col.5, lines 10-13).

14. As per claims 11-12 and 22-23, Goss and Morganstein taught the invention substantially as claimed in claims 1 and 13. Goss further taught the preparation of a call connection message related to the call being set up between the call center and the subscriber premises and sending the call connection message to the gateway for delivery to the subscriber premises (col.7, lines 1-6, 59-64, col.8, lines 11-18, 35-42, col.14, lines 30-37, 40-45).

15. As per claims 24 and 26, Goss and Morganstein taught the invention substantially as claimed in claims 1 and 13. Goss further taught that the data network is Internet (col.1, lines 62-65).

16. As per claims 25 and 27, Goss and Morganstein taught the invention substantially as claimed in claims 1 and 13. Goss further taught to utilize a telephone at the subscriber premises for enabling communication between a user at the subscriber premises and an available agent at the call center (col.2, lines 2-8, 11-13).

***Response to Arguments***

17. Applicant's arguments filed 3/1/2004 have been fully considered but they are not persuasive.

18. In the remark, applicant argued that (1) No teachings or suggestion of queuing calls waiting for a specific agent in the arrangement of Goss. A call queue status message is never intended for delivery in Goss reference (see pages 1-2 of the remark).

19. Examiner traverse the argument that:

As to point (1), Goss taught to use timer in queue to determine whether the request will be rejected (request rejected if the queue is above a certain threshold, col.24, lines 5-18) or answered when an agent becomes available (col.1, lines 19-22, col.4, lines 66-67, col.5, lines 1-3, col.7, lines 1-10, col.8, lines 11-14, col.10, lines 28-32, col.23, lines 42-45), it would have been obvious to use a timer to estimate a time-in-queue to estimate how long the subscriber has been waiting. Morganstein also taught to estimate the time-in-queue (col.5, lines 18-20) and prepare a call queue status message (col.2, lines 15-18, col.5, lines 26-39, col.9, lines 10-12). Examiner rely on Morganstein reference in teaching the limitation of using a call queue status

message. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Goss and Morganstein because Morganstein's teaching of determining time-in-queue and call queue status message helps Goss' system to show how long the subscriber has been waiting in queue for help.

***Conclusion***

20. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenny Lin whose telephone number is (703)305-0438. The examiner can normally be reached on 8 AM to 5 PM Tuesday to Friday and every other Monday.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (703)305-8498. Additionally, the fax numbers for Group 2100 are as follows:

Official Responses: (703) 872-9306

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-6121.

ksl  
March 26, 2004



JOHN FOLLANSBEE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100